

Appl. No. 10/675,684
Resp. dated Sept. 27, 2010

SEP 27 2010

Reply to FOA of Apr. 26, 2010

REMARKS

The April 26, 2010 Action finally rejected all claims pending under §112 and claims 1-3, 7 and 9 under §103. The present Amendment and Response (i) amends claim 1 to overcome the current §112 rejections, and (ii) provides arguments in favor of patenting over the cited references. For the following reasons, Applicant respectfully requests withdrawal of the rejections.

MPEP §707.02- "Special" application

Pursuant to MPEP §707.02, the supervisory patent examiners are expected to personally check on the pendency of every application which is up for the **3rd or subsequent** Action with a view to finally concluding its prosecution. Any application that has been pending **5 years** should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution. In order to accomplish this result the application is to be considered "special" by the examiner.

Applicant respectfully reminds the Examiner that this is the **4th Action** and the application has been pending for **7 years**. *Thus, Applicant requests that the application be considered "special" per the MPEP.*

In the ClaimsClaim Rejections – 35 USC §112

All claims pending, 1-9, stand rejected under 35 USC §112, second paragraph, as being indefinite. Specifically, the Examiner states it is "unclear when the warehouse was created." In response, Applicant submits an amendment to claim 1 to remove the word "created." Additionally, Applicant adds "hardware device" at the end of claim 1 to properly identify the "target" and overcome the antecedent basis rejection for claim 1.

Finally, the Examiner states that the specification does not support claim 1 and the feature of "storing said license on behalf of said target device until installation of said license on said target". The Examiner is directed to, for example, par. [0036] which states, "Typically, programming workstation 116-117 establishes a connection with license sales site 104, e.g., via the Internet, receives the generated license from virtual warehouse 109, and stores the license in storage 118 until upload to client site 110.;" and par. [0068] which states, "the license file is electronically transmitted to a programming workstation (e.g., programming workstation 116-117) and stored in a

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database of the workstation (e.g., storage 118) for future installation to the target." See also, Figure 2 "client site" which clearly illustrates at "22" the "software license" delivered from the virtual warehouse to the programming workstation and then at "23" installed on target CPU.

Applicant respectfully requests withdrawal of the Section 112 rejection to claims 1-9.

ONCE AGAIN- Applicant notes that Claim 8 is only rejected under Section 112. Accordingly, should the Examiner agree that the enclosed amendment to claim 1 overcomes the Section 112 rejection to claim 1 (for which claim 8 depends), then Applicant believes claim 8 is in condition for immediate allowance.

Claim Rejections -35 USC§103

Primary Reference- Russell

Claims 1-7 and 9 stand rejected under 35 U.S.C. §103 as being anticipated by Primary Reference, Russell et al., US Publication No. 2002/0049679 published on April 25, 2002 in view of Misra et al., US Patent No. 6,189,146 issued on Feb. 13, 2001. Additionally, claims 4 and 5 are rejected further in view of Stefkik et al., US Patent No. 7,209,902 issued on April 24, 2007. For the reasons stated herein, Applicant respectfully traverses these rejections.

In general, Russell discloses a system for viewing digital content on a user network-enabled device by enabling a license. A user contacts a main website with the user network-enabled device and views the content available (e.g., digital movies). The user may select and download the movie to the user network-enabled device but it is not viewable until the user obtains a license. Thus, the user requests a license for a specific movie. Information is gathered to generate the license and may include desired rental model, an expiration date for the rental model, and information that identifies the user network-enabled device. Based on the information, a license is generated and then transferred to a protected database on the requesting user network-enabled device. Before the movie will play, the media player and security technology residing on the device examines the license to verify its validity. If the verification conditions are satisfied, the license is enabled and the user will be able to view the movie. (See Russell Summary of Disclosure, i.e., [0010] – [0014])

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Applicant discloses and claims:

a virtual warehouse website specifically for a single end user, said virtual warehouse having a storage comprising a personal inventory of intangible software components, said personal inventory being associated in said warehouse with only said end user and only said hardware device unique identifier.

The virtual warehouse is a personal inventory of intangible software components specifically for the client and the client's hardware device. The client accesses the warehouse and is able to view the personal inventory (e.g., Applicant's Figure 9). At such time as the client is ready to create a license for the target hardware device, the client simply selects from the personal inventory of software components and a license generator creates the license. The generated software license for the target device is stored in the virtual warehouse. Again at a potentially later time, the client or the client's representative, may access the virtual warehouse and transfer the software license to a programming workstation for storage and use in the target device.

In contrast, Russell does not have a virtual warehouse containing a personal inventory of intangible software components being associated with only the end user and only a particular hardware device unique identifier. Rather, Russell discloses a main website of all the content (e.g., movies) that are available, not simply the ones that are associated with a single user and hardware device unique identifier. Applicant's virtual warehouse is specific to the client and to the client's hardware device.

The Examiner incorrectly believes that Applicant's virtual warehouse website is akin to the "protected database" or "PD" disclosed by Russell. The protected database is a storage located on the user network-enabled device and houses the license for the specific content. (See Russell [0011] and Figures 3 and 4). The Examiner further states that Applicant's target hardware device is akin to the "user network-enabled device" disclosed by Russell. Thus, the Examiner is incorrectly stating that the virtual warehouse website is within or on the target hardware device. Applicant's virtual warehouse website storage is not located on the target hardware device nor do Applicant's claim recite this. At paragraph 6 of the current Action, the Examiner states that "the claims do not indicate that the virtual warehouse and target hardware are

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separate." Applicant notes that the "virtual warehouse" is recited as a *virtual warehouse website* in claim 1. It is "virtual" and is not the "target hardware device" as recited in claim 1.

Further in contrast, Russell requires that the particular user network-enabled device communicate directly with the main website to receive the downloaded license. (See e.g., Russell [0011] "The license is then transferred to a protected database on the requesting user network-enabled device." And [0050] "...the user will be required to connect to the main website again at a later time using that particular UND [user network-enabled device] and transfer the purchased license to that UND.")

Applicant's claim recites that a "programming workstation" which is "in communication with but separate from the target hardware device" receives the software site license on behalf of the target device. Thus, the target device is not required to communicate directly with the virtual warehouse website, but rather a separate device does this, i.e., the programming workstation.

The Examiner points to Russell paragraph [0031] for support of the virtual warehouse as recited by Applicant. Further, the Examiner points to Russell paragraphs [0045] and [0047] for support of a software site license being stored in the virtual warehouse storage for later use. Applicant submits that nowhere in the recited paragraphs of Russell (or anywhere else in Russell) does Russell disclose that the *license is generated from the stored software components for the target hardware device and stored in a virtual warehouse storage for later use*. Paragraphs [0045] and [0047], respectively, are reproduced below:

FIG. 2 shows a simplified block diagram of a network operations center (NOC) 200, according to one embodiment of the invention. NOC 200 comprises multiple Web servers 204, multiple application servers 208, firewalls 210 and 212, license generator 214, and main website 206. Web servers 204 deliver documents such as HTML and DHTML documents requested by a user through UND 202, as well as storing other documents and files (audio, video, graphics, or text) that may be displayed to the user on main website 206. Application servers 208 may create dynamic Web pages which may be provided to Web server 204 and that may be displayed to the user on the main website. Application servers 208 may also contain personalization information on different users of the main website such as, but not limited to, user personalized home pages and user shopping habits. In one embodiment, application servers 208 also store business rules for movie license acquisition by users of main website 206. As discussed in more detail below, these business rules define who may acquire a license to view a movie and under what conditions (i.e., time period, number of viewings within the time period).

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Application servers 208 are authorized to access license generator 214 through firewall 212. The license generator 214 will generate a license for a user-requested movie based on the business rule information passed to license generator 214 by application servers 208.

At best, Russell discloses that servers 208 store "business rules" for movie license acquisition by users of website 206. The business rules define "who may acquire a license to view a movie and under what conditions (i.e., time period, number of viewings within the time period)." The "license generator 214 will generate a license for a user-requested move based on the business rule information passed to license generator 214 by application servers 208." The "business rules" are not "stored software components" for the target hardware device, and furthermore, certainly are not from a "personal inventory of intangible software components" being associated with "only said end user and only said hardware device unique identifier."

Secondary Reference – Misra

The Examiner admits that Russell fails to teach each and every element of Applicant's claims as recited. Specifically, the Examiner admits that Russell does not teach that the programming workstation is a separate entity from the target hardware device. As pointed out above, since Russell fails to teach the two are separate entities, then the Examiner's assumption that "programming workstation" is akin to the "media player" disclosed by Russell must also fail. As is clearly recited in Russell, the media player resides on the user network-enabled device (which the Examiner states is akin to Applicant's target hardware device). (See Russell par. [0012]). Further, the Examiner admits that Russell does not teach that the programming workstation receives the software site license from the virtual warehouse storage on behalf of the target device. Misra is cited to fill in both these deficiencies.

In general, the Misra system 20 has a licensing clearinghouse 22 that creates and issues valid software licenses and is a separate entity from company 24. For example, the clearinghouse may be the software manufacturer or vendor. The company has at least one designated license server 28 and the license pack from license generator 26 is sent to license server 28. The license server 28 is responsible for distributing the software licenses contained in the licensed pack to clients 30. The license server 28 stores the individual software licenses for subsequent distribution to clients 30. When a client needs a license, the license server determines the client's

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operating system platform and grants the appropriate license and the current license is stored locally at the client. The license server 28 maintains an inventory of licenses that have been purchased and monitors the licenses that have been granted to the clients. One or more intermediate servers 32 facilitate the license distribution from the server 28 to the clients 30, and if the client does not have an appropriate license, the server 32 assists the client in obtaining the license from the license server 28. Once the license is received, it is stored in a license cache at the client. (Misra Abstract; Misra column 3 line 59 to column 4 line 58).

As clearly recited in Misra, the license server receives all the licenses from the license generator. In other words, the licenses are generated *without specific knowledge of the clients* and sent to the license server for storage. *When a client needs a license, the license server determines the client's operating system platform and grants the appropriate license from the license server storage.* Misra fails to disclose that the license is generated using a *personal inventory of intangible software components being associated in a virtual warehouse specifically for a single end user and for a specific hardware device unique identifier.* Rather, Misra determines what already-generated license will match the client *after* the client requests a license. The license is not stored in a virtual warehouse as recited by Applicant.

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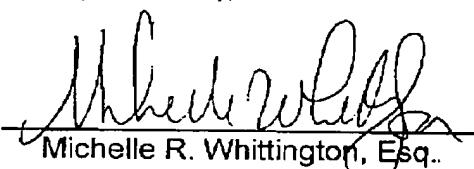
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CONCLUSION

In view of the foregoing, Applicant requests consideration of the enclosed remarks, entry of amendments, and withdrawal of the Section 112 and 103 rejections. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact the undersigned at the Examiner's convenience. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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